

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER**DO NOT WRITE IN THIS SPACE**

Case

03-CA-153939

Date Filed

06/11/2015

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer		b. Tel. No.
Derico of East Amherst Corp d/b/a McDonald's located at 453 William Street, Buffalo, NY 14204 & McDonald's USA LLC, One McDonald's Plaza, Oak Brook, IL 60523 as Joint Employer		(716) 847-2619
d. Address (Street, city, state, and ZIP code)		c. Cell No.
McDonald's, 453 William Street, Buffalo, NY 14204 & McDonald's USA LLC, One McDonald's Plaza, Oak Brook, IL 60523		f. Fax No.
e. Employer Representative		g. e-Mail
(b) (6), (b) (7)(C) Derico of East Amherst Corp. d/b/a McDonald's, 18 Limestone Dr., Ste. 4, Williamsville, NY 14221 (716) 810-0400 & Gloria Santana, Executive VP, General Counsel, and Secretary, McDonald's Corporation		h. Number of workers employed
i. Type of Establishment (factory, mine, wholesaler, etc.)		j. Identify principal product or service
Restaurant		Food service
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

On a date within the last six months, the above-named Joint Employer has unlawfully interfered with, restrained, and coerced employees in the exercise of their rights under the Act by engaging in the following conduct: 1) On (b) (6), (b) (7)(C) 2015, suspending the employment of (b) (6), (b) (7)(C), as a result of (b) (6), participation (b) (6), (b) (7)(C) and for engaging in other protected activities (by (b) (6), (b) (7)(C) (last name unknown)); 2) On (b) (6), (b) (7)(C) 2015, unlawfully conditioning (b) (6), (b) (7)(C) continued employment upon (b) (6), agreement to refrain from participating in the Fight for 15 campaign and any protests; 3) On or about (b) (6), (b) (7)(C) 2015, implementing unlawful conditions in order for (b) (6), (b) (7)(C) to return to work; 4) On or about (b) (6), (b) (7)(C) 2015, conditioning (b) (6), (b) (7)(C) reinstatement on (b) (6), agreement to sign a letter; 5) On (b) (6), (b) (7)(C) 2015, reducing the work hours of (b) (6), (b) (7)(C) and changing (b) (6), work schedule; 6) On (b) (6), (b) (7)(C) 2015, instructing (b) (6), (b) (7)(C) not to speak with (b) (6), co-workers (by (b) (6), (b) (7)(C)); and 7) On (b) (6), (b) (7)(C) 2015, prohibiting (b) (6), (b) (7)(C) from remaining at the restaurant at the end of (b) (6), shift (by (b) (6), (b) (7)(C)), all in response to (b) (6), participation in protected activity.

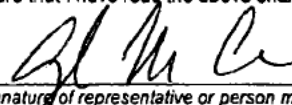
3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Fast Food Workers Committee

4a. Address (Street and number, city, state, and ZIP code)	4b. Tel. No.
2-4 Nevins Street Brooklyn, NY 11217	(b) (6), (b) (7)(C)
	4c. Cell No.
	4d. Fax No.
	4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)**6. DECLARATION**

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By 
(signature of representative or person making charge)

Angelica M. Cesario

(Print/type name and title or office, if any)

Address Levy Ratner, P.C., 80 Eighth Avenue Floor 8, New York, NY 10011-5126

6/10/2015

(date)

Tel. No.

212-627-8100

Office, if any, Cell No.

Fax No.

212-627-8182

e-Mail

acesario@levyratner.com

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 3
130 S Elmwood Ave Ste 630
Buffalo, NY 14202-2465

Agency Website: www.nlr.gov
Telephone: (716)551-4931
Fax: (716)551-4972



Download
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June 11, 2015

(b) (6), (b) (7)(C)

Derico of East Amherst Corp d/b/a McDonald's
18 Limestone Dr.
Ste. 4
Williamsville, NY 14221

Gloria Santona, Executive Vice President & General Counsel
McDonald's USA, LLC
One McDonald's Plaza
Oak Brook, IL 60523

Re: Derico of East Amherst Corp d/b/a
McDonald's & McDonald's USA LLC as
Joint Employer
Case 03-CA-153939

Dear **(b) (6), (b) (7)(C)**, Ms. Santona:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner RENEE A. HUTT whose telephone number is (716)551-4969. If this Board agent is not available, you may contact Supervisory Field Examiner SANDRA L. LARKIN whose telephone number is (716)551-4946.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts

and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

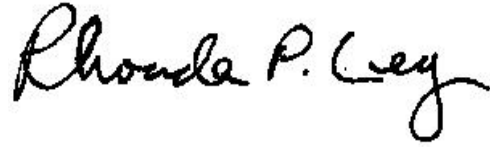
We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Derico of East Amherst Corp d/b/a
McDonald's & McDonald's USA LLC as
Joint Employer
Case 03-CA-153939

- 3 -

June 11, 2015

Very truly yours,

A handwritten signature in black ink that reads "Rhonda P. Ley". The signature is written in a cursive style with a large, stylized 'R' and a long, sweeping tail on the 'y'.

RHONDA P. LEY
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

Derico of East Amherst Corp d/b/a McDonald's & McDonald's USA LLC as Joint Employer

CASE NUMBER

03-CA-153939

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)**2. TYPE OF ENTITY**☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)**3. IF A CORPORATION or LLC**

A. STATE OF INCORPORATION OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS**5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR****6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).****7. A. PRINCIPAL LOCATION:****B. BRANCH LOCATIONS:****8. NUMBER OF PEOPLE PRESENTLY EMPLOYED**

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates)A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$

YES NO

B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$**H. Gross Revenues from all sales or performance of services (Check the largest amount)**☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.

I. Did you begin operations within the last 12 months? If yes, specify date: _____

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?☐ YES ☐ NO (If yes, name and address of association or group).**11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS**

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

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cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**DERICO OF EAST AMHERST CORP D/B/A
MCDONALD'S & MCDONALD'S USA LLC AS
JOINT EMPLOYER**

Charged Party

and

FAST FOOD WORKERS COMMITTEE

Charging Party

Case 03-CA-153939

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on June 11, 2015, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

Derico of East Amherst Corp d/b/a
McDonald's
18 Limestone Dr.
Ste. 4
Williamsville, NY 14221

Gloria Santona, Executive Vice President &
General Counsel
McDonald's USA, LLC
One McDonald's Plaza
Oak Brook, IL 60523

June 11, 2015

Date

Jerry T. Tidd, Designated Agent of NLRB

Name

/s/Jerry T. Tidd

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 3
130 S Elmwood Ave Ste 630
Buffalo, NY 14202-2465

Agency Website: www.nlr.gov
Telephone: (716)551-4931
Fax: (716)551-4972



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June 11, 2015

FAST FOOD WORKERS COMMITTEE
24 Nevins St
Brooklyn, NY 11217-1010

Re: Derico of East Amherst Corp d/b/a
McDonald's & McDonald's USA LLC as
Joint Employer
Case 03-CA-153939

Dear Sir or Madam:

The charge that you filed in this case on June 11, 2015 has been docketed as case number 03-CA-153939. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Examiner RENEE A. HUTT whose telephone number is (716)551-4969. If this Board agent is not available, you may contact Supervisory Field Examiner SANDRA L. LARKIN whose telephone number is (716)551-4946.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

June 11, 2015

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website www.nlr.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink that reads "Rhonda P. Ley". The signature is written in a cursive, flowing style.

RHONDA P. LEY
Regional Director

cc: Angelica M Cesario, ESQ.
Levy Ratner, P.C.
80 Eighth Avenue Fl. 8
New York, NY 10011-5126

Case Name: Derico of East Amherst Corp d/b/a McDonald's & McDonald's USA LLC as Joint Employer
Case No.: 03-CA-153939
Agent: [AGENT NAME AND TITLE]

CASEHANDLING LOG

[illegible]

From: wivb.com
To: [Feuerstein, Jesse S](#)
Subject: [Shared Post] Fast Food Wage Board holds first public hearing
Date: Wednesday, June 17, 2015 2:08:06 PM

Kim Gibson (kim.gibson@1199.org) shared a post from wivb.com



Fast Food Wage Board holds first public hearing

by [Katie Alexander](#), News 4 Reporter

Hundreds fast food workers, union representatives, and religious leaders from across Western New York joined together with state and local I...

[Read more of this post](#)

[Katie Alexander, News 4 Reporter](#) | June 5, 2015 at 12:52 pm | Categories: [Local News](#)
| URL: <http://wp.me/p4ySte-zgY>


Comment

[See all comments](#)

Change your email settings at [Manage Notifications](#).

Trouble clicking? Copy and paste this URL into your browser:

<http://wivb.com/2015/06/05/fast-food-wage-board-holds-first-public-hearing/>

Thanks for flying with  WordPress.com

From: [Kim Gibson](#)
To: [Feuerstein, Jesse S](#)
Subject: Fwd: (b) (6), (b) (7)(C) return to work note
Date: Wednesday, June 17, 2015 2:46:24 PM
Attachments: [WP 20150608 15 28 03 Pro.jpg](#)

See attached note

Sent from my iPad

Begin forwarded message:

From: Kim Gibson <kim.gibson1199@gmail.com<<mailto:kim.gibson1199@gmail.com>>>
Date: June 17, 2015 at 2:44:57 PM EDT
To: kim gibson <kim.gibson@1199.org<<mailto:kim.gibson@1199.org>>>
Subject: (b) (6), (b) (7)(C) return to work note

[cid:995B2A38-7F4D-45F0-9C1F-7D51DC9B55B7]

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

12/15

3:30pm

I (b) (6), (b) (7)(C) would like to continue my employment at mcdonalds as I have for the last (b) (6), (b) (7)(C) My Aspirations are to continue working for mcdonalds and to Advance my position. I Enjoy working my current Shift and want to keep My Same hours.

I will also continue to participate in what are my protected rights under NYS Labor Law and the NLRBA

(b) (6), (b) (7)(C)

From: [Kim Gibson](#)
To: [Feuerstein, Jesse S](#)
Subject: (b) (6), (b) (7)(C) Return to Work Text
Date: Wednesday, June 17, 2015 11:49:57 PM
Attachments: [A0.txt](#)
[ATT00001.txt](#)

(b) (6), (b) (7)(C) This is to inform you of your work schedule this week. Tuesday, (b) (6), (b) (7)(C) /15, (b) (6), (b) (7)(C); Friday (b) (6), (b) (7)(C) /15, (b) (6), (b) (7)(C); There may be hours (b) (6), (b) (7)(C) lets get through these shifts. (b) (6), (b) (7)(C)

~~202 235 6586~~
212 627 9100

Angelica Cesario

(b) (6), (b) (7)(C), (b) (7)(D)

(1/11)

6/12

• Fast Food Workers Committee

(b) (5), (b) (6), (b) (7)(C)

(b) (5), (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C), (b) (7)(D)

→ (b) (5), (b) (6), (b) (7)(C)

→ reduction of work hours

• Just ~~is~~ investigating the facts of the case

I can speak w/

(b) (6), (b) (7)(C), (b) (7)(D)

directly w/ the off. don't -

- Angelica will speak w/

(b) (6), (b) (7)(C), (b) (7)(D)

+ try to set up the

(b) (6), (b) (7)(C), (b) (7)(D)

- she will get back to

me ~~for~~ the reason of

(b) (6), (b) (7)(C), (b) (7)(D)

is available

6/15

Msg for Angelica Cesario

(b) (6), (b) (7)(C), (b) (7)(D)

Kim Gibson called - she will bring

(b) (6), (b) (7)(C), (b) (7)(D)

6/15

Msg for

(b) (6), (b) (7)(C)

Called Jim Piroca

(b) (5), (b) (6), (b) (7)(C)

(b) (6)

4/18

Called Kim Gibson

(b) (5), (b) (6), (b) (7)(C)

- Jim Grooms can contact Kim Gibson directly
→ can contact Kim on her cell - (515) 690-5877

6/18

Called Jim Grosso

left msg explaining what
could be

Jim called [REDACTED]

(b) (6), (b) (7)(C)

Want

(b) (5), (b) (6), (b) (7)(C)

Ms. for Anglica Cesario

(b) (5)

$$\frac{6}{22}$$

Ms. for Anglica

6/24

~~Mrs~~ Mr., called Angelica

- Exp not willing to w/d due to joint v/r issue
- Explained to her that U g getting all they would in settlement than @ trial & that joint v/r issue not affected by w/d of charges

(b) (5)

$$w/2v$$

Moq for Anglica

6/29

m_{55} für Ängstliche

John Robert O'Sullivan. Corn

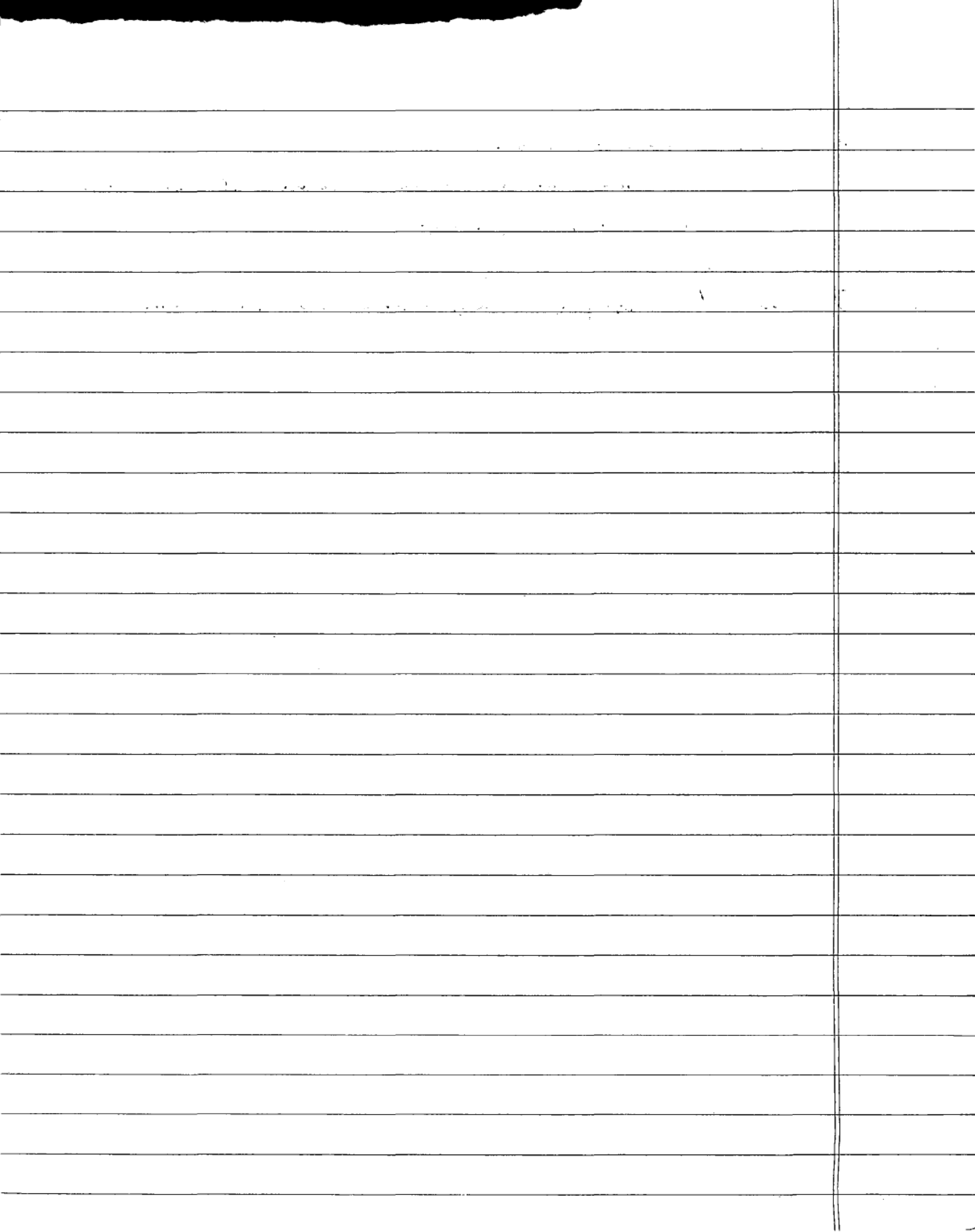
6/5^o Paul called Angelica
- she told him to e-mail jwilcox@levyraiser.com
- I e-mailed jwilcox

7/1^x Msg for Gwynne Wilcox + sent her an e-mail

7/1^o Angelica called - ~~she~~ is withdrawing - will send me an e-mail

(b) (6), (b) (7)(C)

Call Aramis - confirmed the (b) (6), (b) (7)(C) has already
received the (b) (6), (b) (7)(C) is back to (b) (6), (b) (7)(C)
old schedule - Jim confirmed this



From: [Angelica M. Cesario](#)
To: [Feuerstein, Jesse S](#)
Subject: RE: NLRB charge 03-CA-153939 - Derico of East Amherst - McDonalds
Date: Monday, July 13, 2015 12:01:35 PM

Hi Jesse,

We are withdrawing the above-referenced charge, on the condition that the Employer complies with the terms of its settlement offer. We also wish to specify that our withdrawal does not signify any concession as it relates to the joint employer question.

Thank you, and please let me know if you require anything else from us.

Best,
Angelica

--

Angelica M. Cesario | [View Bio](#)
acesario@levyratner.com

LEVY RATNER, P.C.

80 Eighth Avenue, 8th Floor
New York, NY 10011
(212) 627-8100 | (212) 627-8182 Fax
www.levyratner.com

From: Feuerstein, Jesse S [<mailto:Jesse.Feuerstein@nlrb.gov>]
Sent: Monday, July 13, 2015 8:49 AM
To: Angelica M. Cesario
Subject: RE: NLRB charge 03-CA-153939 - Derico of East Amherst - McDonalds

Angelica—

I never got the confirmation e-mail from you, and my understanding is you wanted to provide that before I processed the withdrawal. Can you just give me a heads up where things stand? If you consider the charge withdrawn based on the terms of the settlement, just let me know.

Thanks,
Jesse

From: Angelica M. Cesario [<mailto:acesario@levyratner.com>]
Sent: Friday, July 10, 2015 2:54 PM
To: Feuerstein, Jesse S
Subject: RE: NLRB charge 03-CA-153939 - Derico of East Amherst - McDonalds

Yes, I will call you now.

--

Angelica M. Cesario | [View Bio](#)
acesario@levyratner.com

LEVY RATNER, P.C.

80 Eighth Avenue, 8th Floor
New York, NY 10011
(212) 627-8100 | (212) 627-8182 Fax
www.levyratner.com

From: Feuerstein, Jesse S [<mailto:Jesse.Feuerstein@nlrb.gov>]
Sent: Friday, July 10, 2015 2:43 PM
To: Angelica M. Cesario
Subject: RE: NLRB charge 03-CA-153939 - Derico of East Amherst - McDonalds

Angelica—
I finally have some time. You free now?
Jesse

From: Angelica M. Cesario [<mailto:acesario@levyratner.com>]
Sent: Friday, July 10, 2015 8:43 AM
To: Feuerstein, Jesse S; Gwynne Wilcox
Cc: Murphy, Paul
Subject: RE: NLRB charge 03-CA-153939 - Derico of East Amherst - McDonalds

Hi Jesse,

Thank you for reaching out. I am in meetings until 1pm today, but will call you this afternoon. I look forward to speaking with you then.

Best,
Angelica

--

Angelica M. Cesario | [View Bio](#)
acesario@levyratner.com

LEVY RATNER, P.C.

80 Eighth Avenue, 8th Floor
New York, NY 10011
(212) 627-8100 | (212) 627-8182 Fax
www.levyratner.com

From: Feuerstein, Jesse S [<mailto:Jesse.Feuerstein@nlrb.gov>]
Sent: Friday, July 10, 2015 8:40 AM
To: Gwynne Wilcox
Cc: Murphy, Paul; Angelica M. Cesario
Subject: RE: NLRB charge 03-CA-153939 - Derico of East Amherst - McDonalds

Thanks so much for your help Gwynne. Angelica, if you have some time give me a call today. I am

available on my cell phone at 716 440 6105. I have a few appointments today but will certainly call you back if I am not available when you call. If we don't connect today I will call you Monday.

Jesse

From: Gwynne Wilcox [<mailto:gwilcox@levyratner.com>]

Sent: Thursday, July 09, 2015 7:25 PM

To: Feuerstein, Jesse S

Cc: Murphy, Paul; Angelica M. Cesario

Subject: Re: NLRB charge 03-CA-153939 - Derico of East Amherst - McDonalds

Jesse-

I want to let you know that I have received approval to settle this case. I have copied Angelica Cesario who can work out the details with you.

Thank you for your work and your patience.

Gwynne

Sent from my iPhone

On Jul 7, 2015, at 9:36 AM, "Gwynne Wilcox" <gwilcox@levyratner.com> wrote:

As Angelica informed you, we have informed our client about your request. I have not received a response but will follow up with my client. I will get back to you as soon as I can.

Sent from my iPhone

On Jul 7, 2015, at 8:51 AM, "Feuerstein, Jesse S" <Jesse.Feuerstein@nlrb.gov> wrote:

Ms. Wilcox—

I have yet to receive any response from you regarding this matter. As previously explained, (b) (6), (b) (7)(C) has already been returned to work and received backpay, and as far as I can tell, the allegation has been fully remedied. I would like to get this matter resolved. Please contact me at your earliest convenience.

Thanks,

Jesse Feuerstein
Field Attorney
National Labor Relations Board, Region 3
Phone: (716) 551-4965
Fax: (716) 551-4972

From: Feuerstein, Jesse S

Sent: Tuesday, June 30, 2015 12:19 PM

To: 'gwilcox@levyratner.com'

Subject: NLRB charge 03-CA-153939 - Derico of East Amherst -
McDonalds

Ms. Wilcox—

I was directed to you by Angelica Cesario, who filed the instant charge on behalf of the Fast Food Workers Committee. As you may know, the charge alleged that the Employer (East Derico – which owns multiple McDonalds franchises in the Buffalo area), among other things, unlawfully suspended and altered the work schedule of (b) (6), (b) (7)(C), an employee of one of these McDonald's franchises, in retaliation for (b) (6) protected activity. After I took the evidence from (b) (6), (b) (7)(C), I spoke with the Employer, who agreed to remedy the ULP by providing backpay and return (b) (6), (b) (7)(C) to (b) (6) prior schedule. My understanding is that this has already occurred, and (b) (6), (b) (7)(C) remains employed as of this writing. The Employer has also been advised by their attorney (he is a well-known labor/employment attorney in the Buffalo area) not to take any other employment action against (b) (6), (b) (7)(C) in retaliation for (b) (6) protected activity. As you probably know, this is the remedy that (b) (6), (b) (7)(C) would receive (minus the formal notice posting) if this matter was formally decided at a hearing, and from my perspective, fully remedies the allegations contained in the charge.

I was informed by Ms. Cesario last week that, despite the fact the Employer has agreed to fully remedy the allegations, the Fast Food Workers Committee was still refusing to withdraw the charge because of the larger joint employer issue. As you probably know, the joint employer issue is currently being tried in a separate proceeding at a national level, and really has no bearing on the instant charge. All we have here is an employer that has agreed to remedy an alleged unfair labor practice with terms favorable to the charging party. A withdrawal of the instant charge does not compromise the Fast Food Workers Committee in its pursuit of a larger finding that the McDonald's is a joint employer with its franchisees.

Please let me know as soon as possible if the Fast Food Workers Committee would be willing to withdraw the instant charge based on the terms of the non-Board settlement as I described above.

Thanks,

Jesse Feuerstein
Field Attorney
National Labor Relations Board, Region 3
Phone: (716) 551-4965
Fax: (716) 551-4972

From: [Ley, Rhonda](#)
To: [Harris, Vallana M.](#); [Mattimore, Mary E.](#); [Feuerstein, Jesse S](#)
Subject: FW: withdrawal in Derico of East Amherst - 03-CA-153939
Date: Monday, July 13, 2015 3:38:06 PM
Attachments: [WDL.03-CA-153939.withdrawal via nx gen.docx](#)
Importance: High

The adjusted withdrawal is approved. Pre-determination.

Rhonda P. Ley

Regional Director
Region 3, National Labor Relations Board
130 South Elmwood, Suite 630
Buffalo, NY 14202
(716)551-4934
Rhonda.Ley@nrlrb.gov

From: Mattimore, Mary E.
Sent: Monday, July 13, 2015 3:29 PM
To: Ley, Rhonda
Subject: FW: withdrawal in Derico of East Amherst - 03-CA-153939
Importance: High
[I concur with the recommendation to approve the adjusted withdrawal.](#)

From: Murphy, Paul
Sent: Monday, July 13, 2015 3:27 PM
To: Mattimore, Mary E.
Subject: FW: withdrawal in Derico of East Amherst - 03-CA-153939
Importance: High
[I concur with the recommendation for approval of the adjusted withdrawal.](#)

From: Feuerstein, Jesse S
Sent: Monday, July 13, 2015 1:46 PM
To: Murphy, Paul
Subject: withdrawal in Derico of East Amherst - 03-CA-153939
Non-Board adjusted withdrawal with full backpay. (b) (6), (b) (7)(C) is back working (b) (6) old schedule. I am on Board with the Charging Party's withdrawal request. Remedies are entered in NxGen.

From: [Ceilidh B. Gao](#)
To: [Petock, Patricia E.](#)
Subject: RE: 03-CA-164471 Derico of E Amherst d/b/a McDonald's
Date: Friday, February 12, 2016 3:45:10 PM

Hi Pat, the Union will withdraw allegation #1 of the charge regarding (b) (6), (b) (7)(C) termination. Thanks for your work on this case,

Ceilidh

From: Petock, Patricia E. [mailto:Patricia.Petock@nlrb.gov]
Sent: Friday, February 12, 2016 9:30 AM
To: Ceilidh B. Gao
Subject: 03-CA-164471 Derico of E Amherst d/b/a McDonald's

Ms. Gao,

Please call me at your convenience to discuss the decision in this case.

Thanks

Patricia Petock

Field Examiner
National Labor Relations Board, Region 3
130 S. Elmwood Ave. Suite 630
Buffalo, NY 14202
Phone: 716-551-4944
Fax: 716-551-4972



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 03
130 S Elmwood Ave Ste 630
Buffalo, NY 14202-2465

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July 21, 2015

(b) (6), (b) (7)(C)

Derico of East Amherst Corp d/b/a McDonald's
18 Limestone Dr.
Ste. 4
Williamsville, NY 14221

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Michael S. Ferrell, Esq.
JONES DAY
77 West Wacker Drive
Suite 3500
Chicago, IL 60601

Re: Derico of East Amherst Corp d/b/a
McDonald's & McDonald's USA LLC as
Joint Employer
Case 03-CA-153939

Dear **(b) (6), (b) (7)(C)**, Ms. DAVIS, Madsen, Mr. Ferrell:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Derico of East Amherst Corp d/b/a
McDonald's & McDonald's USA LLC as
Joint Employer
Case 03-CA-153939

- 2 -

July 21, 2015

Very truly yours,

/s/RHONDA P. LEY

RHONDA P. LEY
Regional Director

cc: James R. Grasso, ESQ.
PHILLIPS LYTLE LLP
One Canalside
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Buffalo, NY 14203-2887

Gloria Santona, Executive Vice President
& General Counsel
McDonald's USA, LLC
One McDonald's Place
Oak Brook, IL 60523

Angelica M Cesario, ESQ.
Levy Ratner, P.C.
80 Eighth Avenue Fl. 8
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FAST FOOD WORKERS COMMITTEE
24 Nevins St
Brooklyn, NY 11217-1010